

JAN 17 2006**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT****UNITED STATES OF AMERICA,****Plaintiff - Appellee,****v.****JASON WILLIAM SADLER,****Defendant - Appellant.****No. 04-30452****D.C. No. CR-03-00002-RBL****MEMORANDUM***

**Appeal from the United States District Court
for the Western District of Washington
Ronald B. Leighton, District Judge, Presiding**

Submitted January 9, 2006****Before: HUG, O'SCANNLAIN and SILVERMAN, Circuit Judges.**

Jason William Sadler appeals from the 152-month sentence imposed following his guilty plea conviction for possession with intent to distribute a heroin in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B), possession with intent to

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

distribute cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C), carrying a firearm during a crime of drug trafficking, in violation of 18 U.S.C. § 924(c), and being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). We have jurisdiction pursuant to 28 U.S.C. § 1291.

Because Sadler was sentenced under the then-mandatory Sentencing Guidelines, and we cannot reliably determine from the record whether the sentence imposed would have been materially different had the district court known that the Guidelines were advisory, we remand to the sentencing judge to proceed pursuant to *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc). See *United States v. Moreno-Hernandez*, 419 F.3d 906, 915-16 (9th Cir. 2005) (extending *Ameline*'s limited remand procedure to cases involving non-constitutional error).

REMANDED.